IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 27275 of 2003

Between:

SKM Junior College, Siddaout, rep by its Principal B. Rajagopalaiah
S/o. Late Sriramulu, age : 47, Cuddapah District.

..... PETITIONER

AND

1. Southern Distribution Company Ltd. rep by its Executive Director,

Somajiguda, Hyderabad.
2 Junior Accounts Officer, Sub-ERO, APSPDCL, Badvel, Kadapa.
3 Assistant Divisional Engineer (O), APSPDCL, Ontimetta, Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of Mandamus declaring the impugned Proceedings Letter No. JAO/s.ERO/BDL/B.S.NS/D.NO.1167/93 dt. 5-12-2003 of the second respondent as arbitrary, illegal, discriminatory and by nullifying the same direct continuance of Service Connection 937 of Sidhout in Category VII.

Counsel for the Petitioner: DR.P.B.VIJAYA KUMAR

Counsel for the Respondents: SMT.M.VINOBHADEVI

The Court made the following :

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ORDER:

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Heard both sides and at their request the main writ petition itself is taken up for disposal.

The petitioner, which is an educational institution, filed this writ petition, inter alia, seeking writ of Mandamus challenging the correctness of the impugned orders dated 05-12-2003, wherein the connection existing in the petitioner in S.C.No.937 of Sidhout is being converted from Category-VII to Category II with effect from November 2002. Apart from several other contentions, as urged on behalf of the petitioner in regard to correctness of categorization, the principal contention placed is that the impugned order was passed without any notice to the petitioner or prior enquiry and that the petitioner had no opportunity to substantiate his own case or rebut the allegation as such.

In the counter-affidavit filed on behalf of the respondents herein, which has been sworn to by the Junior Accounts Officer, Sub-ERO, Badwel, Cuddapah, it is stated that in fact the notice was issued on 05-12-2003, but the same could not be acknowledged by the petitioner, but later on it was acknowledged on 31-12-2003.

Having heard the Counsel on either side and on perusal of the material it is not necessary to go into the correctness of the claim as made from the respective side. However, the fact remains that, as stated by the respondents the alleged notice and impugned order are of even date and the said notice appears to have acknowledged by the petitioner on 31-12-2003, whereas impugned orders were passed on the

same date on which the alleged notice seems to have given. Thus, apparently, there is no opportunity given to the petitioner to substantiate his case to call upon and explain in regard to change of categorization. In the circumstances, it would suffice in the interest of justice to direct the respondents to pass fresh orders after providing opportunity to the petitioner.

The Writ Petition is, accordingly, allowed setting aside the impugned orders dated 05-12-2003. The respondents are directed to pass fresh orders, on merits in accordance with law after giving notice and opportunity to the petitioner. No costs.

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B.PRAKASH RAO, J.

Dated 10-11-2004

SKMR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Wednesday, the Tenth Day of November, Two Thousand and Four.

To

1 The Executive Director, Southern Distribution Company Ltd.

Somajiguda, Hyderabad.
2 Junior Accounts Officer, Sub-ERO, APSPDCL, Badvel, Kadapa.
3 Assistant Divisional Engineer (O), APSPDCL, Ontimetta, Cuddapah District.

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